

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

RANDY BRUDWICK,)	Case No. 16-5019
)	
Plaintiff,)	
)	
v.)	
)	ANSWER
CREDIT COLLECTIONS BUREAU,)	
)	
Defendant.)	
)	

Defendant, for its Answer to the Complaint of Randy Brudwick, states as follows:

1. Denies each and every allegation in the Complaint except as otherwise stated, qualified or admitted herein
2. In response to ¶ 1, admits that Plaintiff purports to allege a claim for violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (FDCPA), but denies that Defendant violated that statute.
3. States that the allegations in ¶¶ 2-3 constitute legal conclusions to which no response is required, to the extent a response is deemed necessary, the Defendant denies same.
4. In response to ¶ 4, admits on information and belief that Plaintiff is a person residing in Redfield, South Dakota, and states that whether Plaintiff is a “consumer” as defined by the FDCPA constitutes a legal conclusion to which no response is required.
5. In response to ¶ 5, admits that Defendant is a debt collection business with an office in Rapid City, South Dakota, and states that whether Defendant acted as a “collector” as defined by the FDCPA in this case constitutes a legal conclusion to which no response is required.

6. In response to ¶ 6, admits that Defendant sent a collection letter to Plaintiff on or about March 25, 2015.

7. In response to ¶ 7, admits on information and belief that Plaintiff incurred a medical debt for a personal or family purpose.

8. In response to ¶¶ 8-9, admits that Plaintiff called Defendant after March 25, 2015, regarding the debt, but lacks sufficient information to admit or deny what, if anything, was agreed during the call.

9. In response to ¶ 10, admits that a payment was received on the subject account following the phone call.

10. Denies the allegation in ¶ 11.

11. In response to ¶ 12, admits that a collection lawsuit was commenced by Defendant, Plaintiff did not respond to the summons and complaint, and judgment was therefore obtained on the account.

12. In response to ¶ 13, Defendant incorporates its prior responses.

13. Denies the allegations as stated in ¶ 14.

14. In response to ¶¶ 15-16, states that cited the FDCPA provisions speak for themselves.

15. Denies that Plaintiff is entitled to the recovery alleged in the prayer for relief.

Affirmative Defenses

16. The Defendant alleges that the Complaint fails to state a claim upon which relief can be granted, in whole or in part.

17. The Defendant alleges that, even assuming a violation of the FDCPA occurred, which Defendant denies, Plaintiff's statutory damages are limited.

18. The Defendant alleges that at all times, Defendant acted in good faith, and that any FDCPA violation (which is denied) occurred as the result of a *bona fide* error despite the existence of procedures reasonably adapted to avoid such error.

19. The Defendant alleges that Plaintiff's claims may be barred by a litigation privilege and immunities.

20. The Defendant alleges that Plaintiff's claims may be barred by *res judicata*.

21. The Defendant alleges that Plaintiff may have failed to mitigate his damages, if any.

22. The Defendant reserves the right to assert such additional defenses as may become apparent through discovery or trial.

WHEREFORE, Defendant requests that the Court dismiss the Complaint with prejudice, or in the alternative, enter judgment in Defendant's favor and against Plaintiff, together with attorneys' fees and costs, and grant Defendant such other and further relief as the Court deems just and proper.

DEFENDANT DEMANDS TRIAL BY JURY

Dated: May 4, 2016.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

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